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FEB 22 2005

LUTHER D. THOMAS, Clerk
By: *[Signature]*
Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**TONY L. WARE, CEO and
T. L. WARE BOTTLING
COMPANY, INC.**

Plaintiffs,

v.

**FLEETBOSTON FINANCIAL
CORP.,
f/k/a BANKBOSTON CORP.,**

Defendant.

Civil Action

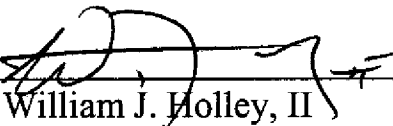
File No. 1:05-CV-0426MHS

NOTICE OF FILING ORIGINAL
SECOND AFFIDAVIT OF CRISTINA SANABRIA

Defendant FleetBoston Financial Corporation hereby gives notice of filing the original of the February 10, 2005 affidavit of Cristina Sanabria. FleetBoston Financial Corporation files this notice by special appearance while preserving all defenses and objections, including but not limited to, lack of personal jurisdiction and insufficient service of process.

Respectfully submitted,

PARKER, HUDSON, RAINER & DOBBS LLP

By: 
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Attorneys for FleetBoston Financial Corporation

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AFFIDAVIT OF CRISTINA SANABRIA

Cristina Sanabria, after being duly sworn, states and deposes:

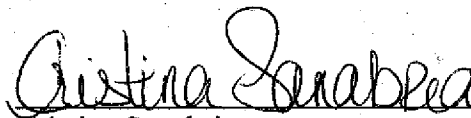
1. I am over 18 years of age and am otherwise competent to give this affidavit which I make on personal knowledge.
2. I am employed as a Senior Legal Administrative Assistant in Bank of America Corporation's legal department.
3. On February 9, 2005, I saw, for the first time, a copy the Complaint and alleged service documents in this matter. I reviewed the Affidavit of Service of Process that purports to be signed by Plaintiff Tony L. Ware as of December 23, 2004 and includes copies of portions of a United States Postal Service certified mail receipt. True and correct copies of this Affidavit of Service of Process and mail receipt are attached hereto as Exhibit 1.
4. From my personal knowledge, United States Postal Service certified mail receipts each contain a unique tracking number. As can be seen in the attached Exhibit 1, the unique tracking number for the mail receipt used by Plaintiffs in this case is 7003 1680 0007 0643 0975. Using this tracking number and a computer, I logged on to the United States Postal Service web site at

www.usps.gov and retrieved a "Track and Confirm" report, a true and correct copy of which is attached hereto as Exhibit 2.


5. From the United States Postal Service Track and Confirm report I learned that the certified mail that is purported to contain Plaintiff's Complaint and discovery requests was never delivered to the addressee for reason, "ADDRESSEE UNKNOWN." From the Track and Confirm report I further learned that the mail was returned to its sender on December 20, 2004 in Atlanta, Georgia at zip code 30315.

6. In addition to the Track and Confirm report, I was able to retrieve a signature receipt form evidencing return of the certified mail package to its sender at 1:55 p.m. on December 20, 2004. Attached hereto as Exhibit 3 is a true and correct copy of the United States Postal Service signature receipt form that I retrieved. The signature evidencing receipt of the package appears to be the same Tony L. Ware signature as that which is signed to the Affidavit of Service of Process filed with the Superior Court of Fulton County on January 14, 2005.

FURTHER AFFIANT SAYETH NOT.


Cristina Sanabria

Sworn to and subscribed
before me this 10th day
of February, 2005.


Notary Public

My Commission Expires:
7-20-08 **ANITA MARUFFI**
NOTARY PUBLIC
(AFFIX NOTARIAL SEAL)
MY COMMISSION EXPIRES JULY 20, 2008

#861390